

HOMEPAGE: http://www.nih.gov/od/olao/oa

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#### Section 508.

Provided by Gary Morin, Office of Equal Opportunity and Diversity Management.

This newsletter spotlights Section 508 of the Rehabilitation Act 1973. This important legislation impacts the acquisition process. The following article provides vital information regarding section 508, it's background and implementation. Also, provided at the end of this article is a list of Section 508 Coordinators or contact Persons, By institute or center. Please keep this list as a reference.

Section 508: Procuring Electronic & Information Technology that is Accessible to Persons with (or without Disabilities)

#### Background to Section 508

On August 7, 1998, Public Law 105-220 enacted the Rehabilitation Act Amendments of 1998 which significantly expanded and strengthened the technology access requirements of Section 508 of the Rehabilitation Act of 1973 (Section 508). Section 508 now requires that when Federal agencies **develop**, **procure**, **maintain**, or **use** electronic and information technology (E&IT), they must ensure that the electronic and information technology is accessible to people with disabilities, with few exceptions. It then required that the Architectural and Transportation Barriers

Compliance Board (Access Board) create new Federal standards for electronic and information technology (E&IT) products to make them more accessible by individuals with disabilities. The Access Board is an independent Federal agency established by Section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities.

Federal employees and members of the public who have disabilities must have access to and use of information and services that is comparable to the same available to non-disabled Federal employees and members of the public. Under Section 508, the scope of electronic and information technology is expansively defined. It includes computers (such as hardware, software, and accessible data such as web pages), facsimile machines, copiers, information transaction machines or kiosks, telephones, and other equipment used for transmitting, receiving, using, or storing information. In plain English, Section 508 aims to provide Federal employees with disabilities access to office systems and information equal to their non-disabled colleagues. It also assures that people in the general public who have disabilities, have equal access to Government information.

The final Section 508 standards were issued on December 21, 2000 by the Access Board, an independent Federal agency devoted to accessibility for people with disabilities. Organizations were required to implement any necessary changes by June 21, 2001, when the six month grace period established by the mandate expired. The standards insure that: Federal employees with disabilities have access to and the use of information and data. comparable to employees without disabilities and that members of the public seeking employment or simply seeking information have equal access to Federal opportunities/information. The standards apply to E&IT equipment and E&IT related equipment, such as computer hardware and software and office equipment such as fax and copier machines, telecommunication equipment and all government websites. It doesn't mean that all such equipment must be fully operational for

disabled users, but it does mean that the equipment must be easily adaptable with simple modifications or compatible with commonly used assistive technology (e.g., screenreaders, TTYs, etc.).

In more detail, the purpose is the following:

"Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, Federal *employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities*, unless an undue burden would be imposed on the agency." (emphasis added)

"Section 508 also requires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency." (emphasis added)

As such, Section 508 applies to Federal employees as well as members of the public. Compliance with Section 508 is enforceable by EEO law suits. There have not been many challenges yet. GSA and the Access Board want vendors to be responsible for providing equipment that is 508 compatible. Ultimately, however, it is the Government's responsibility to make sure it is buying equipment that is Section 508 compliant. It is the Government's responsibility to maintain 508 compliant web sites. All electronic and information technology developed, maintained or used by the Federal Government must be accessible to disabled persons. Comparable access to and use of does not mean separate but equal. Legislative intent is that one product is provided that is or can be readily accessible to all, often through compatibility with software, hardware or other assistive technology that the employee or consumer would already have (e.g., JAWS, a screen reader for a person with a vision impairment).

These requirements must be met unless it would pose an undue burden to do so or under a limited set of other conditions. This is consistent with language used in the Americans with Disability Act (ADA)

and other civil rights legislation, where the term 'undue burden' has been defined as "significant difficulty or expense." However, the agency must document and explain why meeting the standards would pose an undue burden for a given procurement action, and must still provide individuals with disabilities access to the information or data that is affected in an alternative method. There may be no excuse that this simply places an undue burden on the Agency. An undue burden is financial and it applies to the Department budget. Does the Department have the budget to provide accessibility? In almost all cases, the answer is ves. Requests for Waivers should be submitted through the NIH Office of Equal Opportunity & Diversity Management for review and consideration by the Department of Health and Human Services, Office for Civil Rights.

#### What are the Exceptions or areas of 'flexibility?'

Micro-Purchase Exception. Micro-purchases under \$2,500 using government purchase cards (this temporary exemption was originally in place until January 1, 2003; at this time, an additional 18 months is under consideration). This exception is for a one-time purchase that totals \$2,500 or less, made on the open market as opposed to under an existing contract. A software package that costs under \$1,800 is not a micro-purchase if it is part of a \$3,000 purchase-or a \$3,000,000 purchase.

National Security Exception. Systems used for national security, military command, weaponry, intelligence, and cryptologic activities, but not routine business and administrative systems used for other defense-related purposes or by defense agencies or personnel, are exceptions. (See FAR 39.002)

**Back Office Exception**. E&IT located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment (e.g., network switches and routers located in wiring closets) is an exception.

Incidental to a Contract Exception. E&IT acquired by a contractor that is incidental to the contract is an exception. Section 508 only applies to products and services being procured by Federal agencies. Section 508 does not apply to a

contractor's own internal workplace E&IT. Of course, that vendor would still be required, as a contractor with the Federal government, to provide reasonable accommodations for its own employees with disabilities.

**Undue Burden Exception**. Undue burden is defined as "a significant difficulty or expense," considering all agency resources available to the program or component for which the product is being procured. This definition is consistent with the use of "undue burden" and "undue hardship" in the Americans with Disabilities Act (ADA) and other sections of the Rehabilitation Act. Section 508 provides that if a Federal agency determines that meeting the applicable technical provisions would impose an undue burden, any documentation by the agency supporting procurement shall explain why procuring an item that meets all of the applicable Access Board technical provisions would impose an undue burden. Additionally, when the undue burden exception is invoked, the Federal agency shall provide individuals with disabilities with the information and data involved by an alternative means of access.

**Fundamental Alteration Exception**. An agency is not required to alter its acquisition requirements in order to comply with Section 508 if the alteration would be so fundamental that the agency would no longer be procuring E&IT that met its needs.

Non-availability An agency may conclude that E&IT meeting the applicable technical provisions of the Access Board's standards is not available (and purchase E&IT that does not meet those provisions) when it cannot find a commercial item that both meets applicable Access Board's technical provisions and can be furnished in time to satisfy the agency's delivery requirements. If products are available that meet some, but not all, applicable provisions, agencies cannot claim a product as a whole in nonavailable just because it does not meet all of the applicable provisions. Agency acquisitions must comply with those applicable technical provisions that can be met with supplies or services that are available in the commercial marketplace in time to meet the agency's delivery requirements. Nonavailability determinations must be documented

#### **Equivalent Facilitation**

The Access Board's regulations provide that agencies may accept E&IT offered by vendors which uses designs or technologies that do not meet the applicable technical provisions in Subpart B but provide substantially equivalent or greater access to and use of a product for people with disabilities. (See 36 CFR 1194.5.) This is referred to as "equivalent facilitation."

Equivalent facilitation is not an exception or variance from the requirement to provide comparable access. Rather, it is a recognition that technologies may be either developed or used in ways not envisioned by the technical provisions in Subpart B but still result in the same or better functional access as would be provided by strictly meeting the provisions in Subpart B. Functional outcome - not form - is key to evaluating whether a technology results in "substantially equivalent or greater access." In effect, meeting the functional performance criteria in Subpart C of the Board's provisions is the test for equivalent facilitation.

For example, an information kiosk which is not accessible to a person who is blind might be made accessible by incorporating a telephone handset connected to a computer that responds to touch-tone commands and delivers the same information audibly that is provided on the screen.

In short, the concept of equivalent facilitation is designed to allow the marketplace to offer innovative solutions. For this reason, agencies must draft their solicitations for E&IT so that products offering equivalent facilitation are considered along with those that strictly meet the technical provisions of Subpart B of the provisions.

Although Section 508 is typically considered in terms of webpage accessability, it is really much more than that. The six categories of Electronic & Information Technology that must be accessible are:

- Software applications and operating systems (Standard 1194.21)
- Web-based intranet and internet information and applications (Standard 1194.22)
- Telecommunications products (Standard

1194.23)

- Video and multimedia products (Standard 1194.24)
- Self contained, closed products (Standard 1194.25)
- Desktop and portable computers (Standard 1194.26)

The guidelines are listed at http://www.Section508.gov.

### **Tools for Requesting Officials and Procurement Officials**

In 2001, the Information Technology Industry Council (ITI) (www.itic.org/) partnered with the U.S. General Services Administration (GSA) to create a simple, Internet-based tool to assist Federal contracting and procurement officials in fulfilling the new market research requirements contained in the Section 508 implementing regulations. The result: the Voluntary Product Accessibility Template, or VPAT. Today, a number of electronic & information technology (E&IT) companies now routinely produce VPATs, post them on their company web sites, and link them to GSA's "Buy Accessible" web site. Procurement officials should routinely check Section508.gov's Buy Accessible databases to determine if a prospective vendor has already completed a product evaluation and submitted it to GSA.

The expected benefits of Section 508 are: enhanced access for all users to government web sites; easier ability for Federal agencies to meet their existing obligations to disabled employees; increased productivity and job retention of employees who are currently disabled or who may develop a disability.

The NIH Section 508 Steering Committee is coordinating the development of IC-based plans for implementation of Section 508. The Office of Equal Opportunity and Diversity Management and CIT will continue in partnership to educate and lead NIH to compliance with Section 508. An accessibility handbook will be developed. O. Marcella Haynes is NIH's Section 508 Coordinator (see below for contact information). Training is

available through the Office of Equal Opportunity & Diversity Management.

Attached to this article is a listing of NIH Institute and Center representatives/Section 508 Coordinators who are available to assist you with any IC-level implementation issues. There are some web sites available which provide information about Section 508. Please visit them for additional information. They are:

- NIH Office of Equal Opportunity &
   Diversity Management (OEODM)
   <a href="http://oeo.od.nih.gov/section508/accessibility.asp">http://oeo.od.nih.gov/section508/accessibility.asp</a>
- National Institutes of Health Section 508 information: http://508.nih.gov
- Department of Health and Human Services Section 508 information: http://intranet.hhs.gov/iimc/access
- Government-wide General Services
   Administration Section 508 information:
   <a href="http://www.section508.gov">http://www.section508.gov</a>
- US Department of Justice: <a href="http://www.usdoj.gov/crt/508/">http://www.usdoj.gov/crt/508/</a>
- Access Board: <a href="http://www.access-board.gov/">http://www.access-board.gov/</a>

For further information on Section 508:

O. Marcella Haynes, Chief

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ORS	June Johnson

# DELPRO NOTES & SIMPLIFIED ACQUISITION NEWS The Town Crier

Registration for the 2003 NIH Simplified Acquisition Symposium will be available December 16, 2002. You may register online at the OLAO website: http://www.nih.gov/od/olao/oa

Once you arrive at the website, select <u>Training</u>, and the electronic registration form for the symposium may be selected. The symposium will be a two day event. The dates are March 26-27, 2003, at the 4H Conference Center, Chevy Chase, MD. If you have any further questions please contact Mr. John Best (301)496-4595 or BestJ@od.nih.gov.

### ACQUISITION PLANNING AND SPECIFICATION BRANCH

Effective January 1, 2003 Blanket Purchase Agreement (BPA) number 00052763 is being modified to include full service maintenance (Preventive Maintenance and Repair) of some

JGovernment-owned Agilent Technologies (Hewlett-Packard) laboratory equipment systems and products. The Blanket Purchase Agreement was written against Agilent Technologies Federal Supply Schedule (GSA) contract number GS-26F-5944A. The NIH BPA source number is 00052763.

The BPA is being modified for your convenience, and may be used for full service preventive maintenance and repair agreements. Specific information regarding the services provided is available at:

http://www.agilent.com/gsa/gs-26f-5944a.htm

Questions regarding agreements for particular systems, pieces of equipment, or other service related issues may be directed to Agilent Technologies customer assistance. They may be contacted via telephone at (800) 227-9770.

The GSA contract, that the NIH BPA is based upon, includes the following:

Contract Expiration: May 31, 2006

Terms & Conditions:

http://www.agilent.com/gsa/docs/gs-26f-5944a.pdf

You may obtain product and service specifications from this contact point:

Agilent Technologies

Customer Assistance

2850 Centerville Road Wilmington, DE 19808-1610 Ordering Info: CAGE: 0YSC6

DUNS: 195823570

TAX ID: 77-051-8772 Tel: (800) 227-9770

Fax: (302) 633-8901

If you have technical questions, please call Joe Fessler at 301-435-3922 or e-mail at

fesslerj@od.nih.gov

#### **BPA NEWS**

The following BPAs have recently been established:

#56316 - Midland Certified Reagent - for biological materials and laboratory testing services

#56331 - Susan Spangler

**#56343 - Talent Tree of America - for temporary office** support services

#56588 - Crescent Chemicals - for chemicals and biological materials

#56813 - Hyclone Laboratories - for media and blood products

#57114 - Trinity Biotech - for medical supplies, media and blood products

**#56016 - Adaptive Science Tools - for agarose impression mold** 

**#56043 - Dynamic Specialties - for imprinted and personalized items** 

**#56031 - Automated Office Products - for printer and fax toner cartridges** 

#56028 - United Intel - for chemicals and pharmaceuticals

**#56067 - Synectic Resources Inc - for graphic design** services

#56107 - Midwest Biotech - for chemicals and blood products

#56070 - Lawson Products - for hardware and tools

#56110 - Geneka Biotechnology - for biological

materials, blood products and testing services

**#56122 - Amerisys Inc - for office supplies and IT supplies** 

The following BPAs have recently been discontinued:

#49392 - Midland Certified Reagent

#41100 - Office Solutions

#38338 - Office Solutions

#41227 - Susan Spangler

#54708 - Talent Tree of America

#54656 - Ultimate Staffing Services

#53234 - Biolog Life Science

#41503 - Crescent Chemicals

#43344 - Cronatron Welding Systems

#41566 - Hyclone Laboratories

#50737 - Image-Right

#54880 - Mardx Diagnostics

#54147 - Reed Elsevier

#### **AVAILABLE TRAINING & SEMINARS**

#### PURCHASE CARD SURVIVAL

The December 3<sup>rd</sup> class cancelled.

Contact Cole Stathes, at 435-3933, for specific information. Current information on Purchase Card Survival Meetings is available on the following website: http://eos13.dcrt.nih.gov:80/od/opm/purchases/survival.html

#### **Mandatory Purchase Card Training**

This course introduces the NIH Purchase Card, Purchase Log and reconciliation process. Students will learn cardholder and card approving official responsibilities, uses and limitations of the purchase card, ordering procedures, implementation and maintenance of Purchase Logs, and the reconciliation process, the proper use of the ADB Purchase Card will be explained. The class consists of lecture and hands-on exercises with the ADB Purchase Log and reconciliation process.

Mandatory Purchase Card Training has been scheduled for the following dates. Registration is required through Human Resources Development Division (HRDD) using NIHITS. You may obtain further information on class registration at the HRDD web site: http://learningsource.od.nih.gov

#### 2636 PURCHASE CARD TRAINING SCHEDULE

Tuition for the following courses: \$290.00

DATE	START TIME	END TIME	LOCATION	Cancellation Deadline
01/30/03	8:30 AM	12:00 PM	<b>Executive Plaza South</b>	01/01/03
01/30/03	1:00 PM	4:30 PM	<b>Executive Plaza South</b>	01/01/03
02/27/03	8:30AM	12:00 PM	<b>Executive Plaza South</b>	01/29/03
02/27/03	1:00 PM	4:30 PM	<b>Executive Plaza South</b>	01/29/03

#### PURCHASE CARD LOG & PROCESSING SYSTEM

The Purchase Card Log can be generated electronically through the ADB. This half day course introduces electronic Purchase Logs and the Reconciliation process with hand-on exercises in the ADB. Students will create and reconcile an electronic Purchase Log in the ADB.

This course is for CURRENT NIH PURCHASE CARD HOLDERS who wish to create and reconcile electronic Purchase Logs using the ADB.

#### 2635 PURCHASE CARD PROCESSING SYSTEM

**Tuition for the following courses: \$218.00** 

Course Dates	Course Time	Location	Cancellation Deadline
01/30/2003	8:30AM 12:00 PM 1:00 PM 4:30 PM	Executive Plaza South	01/01/2003
02/27/2003	8:30 AM 12:00PM 1:00PM 4:30PM	Executive Plaza South	01/29/2003
03/27/2003	8:30 AM 12:00 PM 1:00 PM 4:30 PM	Executive Plaza South	02/26/2003
05/06/2003	8:30 AM 12:00 PM 1:00 PM 4:30 PM	Executive Plaza South	04/08/2003

#### MANDATORY DELPRO PROCUREMENT TRAINING

The Delegated Acquisition Training Program and first five advanced acquisition seminars listed below are mandatory for Purchasing Agents, Approving Officials, Ordering Officials, and Procurement Officials with DELPRO authority. Failure to complete these seminars may result in loss of authority for DELPRO purchasing. The following courses will be available for enrollment this FY-2003.

2609 Federal Supply Schedules

**Tuition for the following courses: \$ 207.00** 

<b>Course Date</b>	<u>Time</u>	Location	Cancellation Deadline
01/28/2003	9:00AM - 12:00PM 1:00PM 4:00 PM	Executive Plaza South	01/01/2003
04/15/2003	9:00AM - 12:00PM 1:00PM 4:00 PM	Executive Plaza South	03/17/2003
07/15/2003	9:00AM - 12:00PM 1:00PM 4:00 PM	Executive Plaza South	06/16/2003

## 2610 Consolidated Purchasing through Contracts

Tuition for the following courses: \$207.00

Course Date	<u>Time</u>	<u>Location</u>	Cancellation Deadline
01/29/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	01/02/2003
04/16/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	03/18/2003
07/16/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	06/17/2003

#### **Buying from Businesses on the Open Market**

#### **Tutition for the following courses: \$245.00**

Course Date	<u>Time</u>	<u>Location</u>	Cancellation Deadline
01/30/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	01/03/2003
04/17/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	03/19/2003
07/17/2003	9:00 -12:00 1:00 - 4:00	Executive Plaza South	06/18/2003

## 2617 Price Reasonableness in Simplified Acquisitions

#### **Tuition for the following courses: \$245.00**

Course <u>Date</u> 02/20/2003	Time 8:30 AM- 12:00PM 1:00PM - 4:30 PM	Location  Executive Plaza South	Cancellation Deadline 01/22/03
Course Date 05/29/03	Time 8:30 AM- 12:00PM 1:00PM - 4:30 PM	Location  Executive Plaza South	Cancellation Deadline 01/22/03

#### 2612 Professional Service Orders

#### Tuition for the following courses: \$245.00

Course Date	Time	Location	Cancellation Deadline
02/26/2003	8:30 - 12:00 1:00 - 4:30	Executive Plaza South	01/28/2003
05/07/2003	8:30 - 12:00 1:00 - 4:30	Executive Plaza South	04/08/2003

06/11/2003	8:30 - 12:00 1:00 - 4:30	Executive Plaza South	05/13/2003
07/29/2003	8:30 - 12:00 1:00 - 4:30	Executive Plaza South	06/30/2003

#### 2603 Delegated Acquisition Training Program

This class includes segments on processing FSS best value determinations, on open market requirements at various thresholds, and on each of the DELPRO mechanisms. Information is presented in a clear, logical and practical format. Included are exercises and a "hands-on" segment in which students actually access the ADB.

#### **Tuition for the following courses: \$784.00**

Course Date	<u>Time</u>	<u>Location</u>	Cancellation Deadline
01/14-17/2003	9:00 - 4:00	Executive Plaza South	12/17/2002
02/11-14/2003	9:00 - 4:00	Executive Plaza South	01/14/2003
03/11-14/2003	9:00 - 4:00	Executive Plaza South	02/11/2003
04/15-18/2003	9:00 - 4:00	Executive Plaza South	03/18/2003

Although a Cancellation Deadline date may have passed, You MAY still submit a registration form through NIHITS at ANY TIME in case an opening occurs. For further information, please contact the Human Resource Development Division on 496-6211 or use the Uniform Resource Locator (URL), http://learningsource.od.nih.gov.

#### **Simplified Acquisitions Refresher AOs**

This class will focus on changes and updates to Simplified Acquisition procedures, purchasing mechanisms, the ordering process, and the roles and responsibilities of the Approving Official. The newly released Delegated Acquisition Reference Guide will be utilized. The audience is Administrative Officers/Approving Officials who have successfully completed the mandatory four day Delegated Acquisition Training course more than two years ago and feel they could benefit from an update course specifically designed to emphasize Approving Officials responsibilities.

#### Tuition for the following courses: \$190.00

Course Date	<u>Time</u>	Location	Cancellation Deadline
01/29/03	8:30AM - 12:00PM 1:00PM - 4:30PM	Executive Plaza South	01/01/03
03/26/03	8:30AM - 12:00PM 1:00PM - 4:30PM	<b>Executive Plaza South</b>	02/25/03
07/31/03	8:30AM - 12:00PM 1:00PM - 4:30PM	<b>Executive Plaza South</b>	07/02/03

#### THE OLAO ACQUISITION NEWSLETTER

We encourage the ICs to send us any articles they may have related to acquisition, so that we can include your articles in future newsletters.

The Acquisition News is published by the Office of Logistics & Acquisition Operations (OLAO), OA, OD. This issue and prior issues are available through the OPM homepage: http://www.nih.gov/od/opm/

To receive a hardcopy of the Newsletter or to correct / remove your mailing address for the Newsletter, (Mailing Key F113A), please FAX your request to (301) 402-0217, or E-MAIL your request to the following individuals:

Ms. Arlene Wallace at:: wallacea@ors.od.nih.gov or

Ms. Margaret Agresti at: agrestim@ors.od.nih.gov

The above requesting methods are preferred. However, you may also contact the Reprographic Communications Branch on 496-6781 and asked to be placed on, or ask for a correction to or removal from Mailing Key F113A.

The Office of Logistics & Acquisition Operations, invites your comments and suggestions for future articles. Please address all correspondence to the co-editors <u>Pat Seidel, E-mail: SeidelP@OD.NIH.GOV</u>, Tim Theoharis, E-mail: <u>TheoharT@OD.NIH.GOV</u>, Annette Romanesk, E-mail: <u>RomanesA@OD.NIH.GOV</u>, or John Best, E-mail: <u>BestJ@OD.NIH.GOV</u>, OPM Acquisition News, Bldg. 6011, Room 549A.

If you have any questions or comments regarding the information, policy and/or procedures published in the News, contact the DELPRO Helpline on 496-0400 and you will be referred to the appropriate area.

